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PATENT APPLICATION
09/609,046

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: D'Arcy M. Tyrrell III, et al.
Serial No.: 09/609,046
Filing Date: June 30, 2000
Confirmation No.: 2977
Group Art Unit: 2153
Examiner: Aaron N. Strange
Title: METHOD AND SYSTEM FOR DISTRIBUTED
RENDERING

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

REQUEST FOR PRE-APPEAL BRIEF REVIEW

In response to the Advisory Action issued May 9, 2007, Applicant respectfully requests a Pre-Appeal Brief review of this Application so that the rejection of the claims and the objections to the Application can be reconsidered prior to submission of an Appeal Brief.

REMARKS

This Request for Pre-Appeal Brief Review is being filed in accordance with the provisions set forth in the Official Gazette Notices of July 12, 2005 and January 10, 2006. Pursuant to the Official Gazette Notices, this Request for Pre-Appeal Brief Review is being filed concurrently with a Notice of Appeal. Applicant respectfully requests reconsideration of the Application in light of the remarks set forth below.

Claims 1-29 currently stand rejected under 35 U.S.C. §112, first paragraph, as not being described in the specification. Claims 1-29 currently stand rejected under 35 U.S.C. §103(a) as being unpatentable over Cajoleit in view of Hancock. In the prosecution of the present Application, the Examiner's rejections and assertions contain clear errors of law, including a failure to establish a prima facie case of obviousness. To assist the Panel in the review of this Request for Pre-Appeal Brief Review, Applicant submits the following brief summary for consideration.

With respect to the 35 U.S.C. §112 rejection, support for the language of Claims 1-29 can be found at page 9, lines 19-29; page 11, lines 9-18; and page 34, lines 1-7. As disclosed in the passages above, a render job is represented by a render file storing one or more render frames. A schedule server may distribute frames to be rendered to several render hosts. The schedule server can track the progress of the render frames and communicate with the client. A sample of a render job may be provided prior to completion of the render job to the client. Since a frame is part of a render job, a sample of a rendered frame may be provided to the client. Therefore, Applicant respectfully submits that Claims 1-29 are in accordance with 35 U.S.C. §112, first paragraph.

In the Advisory Action of May 9, 2007 and the Final Action of January 26, 2007, the Examiner indicates that the

Cajolet patent discloses receiving an input. However, the input identified by the Examiner that the Cajolet patent discloses is not an input but rather is a determination if any portion of the problem remains unsolved. If any portion remains unsolved, the particular portion is assigned to an available computer. No input is ever received from the client in the Cajolet patent let alone in response to samples of a frame being provided to the client prior to completion of frame rendering as provided in the claimed invention. The Cajolet patent clearly requires that rendering be fully completed before the process is terminated. Thus, the Cajolet patent teaches away from an ability to receive any input from the client prior to completion of frame rendering. Therefore, the Examiner's reliance on the Cajolet patent in combination with the Hancock paper is misplaced. No matter how interpreted, the Cajolet patent and the Hancock paper fail to teach the features of the claimed invention.

Most notable of the legal errors present in the examination of the Application is a failure of the Final Action of January 26, 2007 to establish a prima facie case of obviousness of the claims in the Application rejected under 35 U.S.C. §103(a). There has been no mention of the three criteria for a prima facie case of obviousness as spelled out in M.P.E.P. §2143. The Examiner has not cited any language from the prior art that would provide any indication to those of skill in the art that the Cajolet patent can be combined as proposes in any manner with the Hancock paper. The Examiner only provides a baseless subjective and conclusory "it would have been obvious" statement for combining the Cajolet patent with the Hancock paper without providing any objective reasoning or citing any evidence of record to support such positions. The Examiner has also not provided any reasons how the proposed combination of the Cajolet patent with the Hancock paper would have any expectation of success let alone

a reasonable expectation of success. Moreover, the Examiner has failed to show that the proposed combination would even work for its intended purpose according to the claimed invention.

As for teaching the claimed invention, Independent Claims 1, 8, 14, and 21 recite in general an ability to provide one or more samples of the rendered first or second frames for the render job to the client prior to completion of rendering the first or second frame by the first and second servers and receive an input from the client in response to the one or more samples. By contrast, the Examiner readily admits that the Cajolet patent fails to disclose an ability to provide samples of rendered frames prior to completing its portion of the render job as required by the claimed invention. In addition, as discussed above, the Cajolet patent is not capable of receiving any input from the client let alone in response to the one or more samples that the Cajolet patent has no capability to provide. The portion of the Cajolet patent cited by the Examiner is not related at all to receipt of client input let alone in response to the one or more samples as required in the claimed invention. Moreover, the Hancock, et al. paper merely discloses providing a progressive view of the rendered image. The Hancock, et al. patent does not disclose any capability to receive any input from the client in response to its progressive refinement technique. Therefore, Applicant respectfully submits that Claims 1-29 are patentably distinct from the proposed Cajolet - Hancock, et al. combination.

Based on the remarks above, the Cajolet patent and the Hancock paper are insufficient to support a rejection of the claims. Therefore, Applicant respectfully submits that the claims are patentably distinct from the proposed Cajolet - Hancock combination.

CONCLUSION

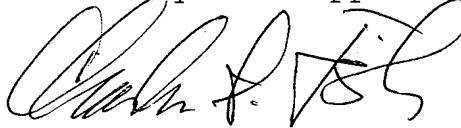
Applicant has now made an earnest attempt to place this Application in condition for allowance. For the foregoing reasons and for other apparent reasons, Applicant respectfully requests allowance of all pending claims.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

Attorneys for Applicant

A handwritten signature in black ink, appearing to read 'Charles S. Fish', is written over the typed name.

Charles S. Fish

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May 29, 2007

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